

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 702 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

PATIRA PACKAGING

Appearance:

MR DN PATEL, ADDL PUBLIC PROSECUTOR for appellant

MR KB ANANDJIWALA, for Respondent No. 1, 2, 3, 4

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 24/08/98

ORAL JUDGEMENT

State, being aggrieved by an order of acquittal recorded by Judicial Magistrate First Class, Bardoli on 10.4.1990 in Criminal Case No. 1748 of 1987 whereby accused were tried for an offence punishable under section 16 read with section 7 (iii) of the Prevention of Food Adulteration Act, has preferred this appeal.

[2. Brief facts leading to the present prosecution

are as under:-

2.1 Food Inspector visited Messrs. Patira Packaging, respondent No.1, situated at Limdachowk, Valod on 27.3.1987 at about 11.30 a.m. and also on 25.9.1987 at 9.00 a.m. As per record, respondent No.1 (hereinafter referred to as the Accused No.1) is a partnership firm and there were four partners in all i.e. Respondents No. 2, 3 and 4 (hereinafter referred to as the original accused No. 2, 3 and 5). It appears that original accused No.4 alleged to have been a partner, has been deleted, vide Exh.9, as she was not a partner on the date of offence. Accused No.1 is a manufacturing firm and it has also got another manufacturing unit at Rajkot. Accused No.1 is alleged to have manufactured an article of food known as "Tasty Pappad". On 27.3.1987, one Madhusudhan was called as a Panch in whose presence the panchnama was drawn. It clearly reveals that accused No.1 was manufacturing without a licence as required under the Prevention of Food Adulteration Rules (hereinafter referred to as the Rules). Salesman Jayeshbhai Desai was present at the relevant time and from him samples of Tasty Pappad were collected. Again, on 25.9.1987, when the firm was visited at 9.00 am., work of packaging the Pappad was in the process. As the manufacturing process was carried on without a licence as required under the Rules, the person concerned, viz: Vijay Sighala who was present at the relevant time was asked to produce details regarding the firm and he failed to produce details regarding the firm. Ultimately a letter was written calling upon the firm to furnish the details, which was also not replied, and, therefore, details were called for from the office of Mamlatdar, Valod.] As the firm was found manufacturing food article without a licence, which is prohibited under section 7(iii) of the Act read with rule 50 of the Rules, after obtaining consent from the appropriate authority, prosecution came to be launched. On appreciation of evidence, the trial Court, on facts held against the accused persons. However, on the point of 'consent' held that it is not sufficient for the sanctioning authority to grant consent merely on finding that prima facie case is made out indicating that the offence is committed, but the sanctioning authority must be satisfied that the prosecution is in the interest of public. The trial Court held that as there was nothing to indicate that the prosecution was in the interest of public, it cannot be said that the sanctioning authority has applied its mind, and, therefore, held that sanction accorded is not in accordance with section 20(1) of the Act. On this ground, the trial Court acquitted the accused. It is

against this order the State has preferred this appeal.

3. Before this Court, it is submitted by learned Advocate Mr. Anandjiwala appearing for the original accused that in the instant case, consent is not as per law, and, therefore, the order of acquittal is not required to be interfered with. On the merits of the case, Mr. D.N. Patel, learned Additional Public Prosecutor pointed out that there is sufficient evidence to show that the manufacturing process was going on without a valid licence as required under the Act and the Rules. Mr. Anandjiwala initially submitted that the manufacturing activities were going on at Rajkot, but ultimately, after going through the evidence, he confined his submission only with regard to the consent. Therefore, this Court is required to consider whether the consent accorded by the competent authority is legal and valid or not.

4. Section 2 (v) of the Act reads as under:-

2. Definitions.- In this Act unless the context otherwise requires,-

- (v). "food" means any article used as food or drink for human consumption other than drugs and water and includes
- (a). Any article which ordinarily enters into, or is used in the dcomposition or preparation of, human food.
- (b). xxx xxx xxx xxx xxx
- (c). xxx xxx xxx xxx xxx

It is not disputed before us that Tasty Pappad is not a food article. In the circumstances, as per section 7 (iii) of the Act, manufacturing of Pappad requires a licence. Section 7 (iii) of the Act reads as under :-

7. Prohibition of manufacture, sale. etc. of certain articles of food.- No person shall himself or by any person on his behalf manufacture for sale, or store, sell or distribute -

- (i). xxx xxx xxx xxx xxx
- (ii). xxx xxx xxx xxx xxx
- (iii). any article of food for the sale of which a licence is prescribed, except in accordance with the conditions of the licence;
- (iv). Any article of food the sale of which is

for the time being prohibited by the Food (Health) Authority in the interest of public health.

(v). Any article of food in contravention of any other provision of this Act or of any rule made thereunder;

Reading section 7 (iii) of the Act, it becomes clear that if a person manufactures without a licence any article of food for the sale of which a licence is prescribed, then the said activity is in breach of the provisions of section 7 (iii) of the Act. If any person manufactures any article of food in contravention of any provision of the Act or of any rule made thereunder, the same is in breach of Section 7 (v) of the Act.

5. Rule 50 of the Rules prohibits manufacture, sale, stock, distribution or exhibition for sale any article of food, including prepared food or ready to serve food except under a licence. That rule has in all 15 sub-clauses with provisos. Reading rule 50 of the Rules, it is very clear that it is necessary to have a licence if he manufactures for sale, or stores or sells or distributes any article of food. In view of the language of Rule 50, it is very clear that a person, before dealing in an article of food, is required to satisfy the authority that he is going to deal in an article of food in the manner laid down in the Rules and as per conditions of licence.

6. When an Act is enacted with a view to see that the health of public is not adversely affected, any act in contravention of the said Act is a violation, and initiation of proceedings for such violation is in the interest of the public at large as it is concerned with the health of public. There are certain offences for which it can be said that if someone acts in breach or in violation of the provisions thereof public at large will suffer and when breach is noticed, it may not be certain who would be the victims. On the other hand, there are certain offences if committed, public at large may not be the sufferer and sufferer may be one individual or more or a group of persons, i.e. act against human body, property etc. (offences under the Penal Code). So far as the Prevention of Food Adulteration act is concerned, if someone acts in breach or in violation of the provisions of the said Act or Rules made thereunder, public at large will always be the sufferer. In other words, it goes without saying that breach of the provisions of the Act is against the interest of public at large. The Apex Court, in the case of JAGDISH PRASAD

VS. STATE OF W.B. (CRI. APP. NO. 50 OF 1969 DECIDED ON 13.12.71) has pointed out that the offences under the Act are anti-social crimes, affecting the health and wellbeing of our people, hence a more drastic step was taken by the legislature in prescribing a minimum sentence and a minimum fine to be imposed even for a first offence. Adulteration of food is so dangerous and wide spread and has so often led to large human tragedies, sudden or slow, insidious or open, that social defense compels casting of absolute liability on the criminal even if the particular offence is committed with an unsuspecting means (AIR 1977 SC 435 at 438). In the circumstances, launching of prosecution for violation of breach of the provisions of the Act is in the public interest.

7. In the instant case, consent is produced at Exh.24. Reading the same, it becomes clear that the authority concerned has applied its mind. The authority has taken into consideration the report submitted by the Inspector, and was satisfied that without obtaining a licence as required under the Rules, the accused were manufacturing food article. The authority was also satisfied that there is a breach of the Rule. The authority has specifically mentioned that in the instant case, there is a breach of Rule 50 which, if read with section 7 (iii) of the Act, constitutes an offence which is punishable under provisions of section 16 of the Act. On being satisfied, after perusing the report, the authority has accorded consent to launch the prosecution against the accused persons.

8. Mr. Anandjiwala submitted that there is nothing to indicate in the consent that the same is accorded in the interest of public and the competent authority applied its mind while granting sanction. Before according the consent, the authority must have before it necessary report and material. According a consent under section 20(1) of the Act is an administrative act and not a quasi-judicial. Therefore, a consent need not contain detailed reasons in support of according the consent. What is required is narration of basic facts that constitutes the offence. It should be apparent on the face of it. Grant of valid sanction to prosecute for an offence under the Act is a condition precedent. The Apex Court has pointed out in several judgments that it is desirable that the facts should be referred to in the sanction. The documents were referred by the competent authority while according the consent and that consent reveals existence of prima facie case and evidence against the accused.

9. It can be safely inferred that there is application of mind when consent was accorded by the competent authority. Section 114 (e) of the Evidence Act raises a presumption that the official act is performed regularly. Burden is on the accused to establish contrary to rebut the presumption.

10. In the case of SURESH H RAJPUT vs. BHARTIBEN PRAVINBHAI SONI reported in (1996) 7 SCC 199, the Apex Court considered about application of mind while granting sanction. In paragraph 12 of the judgment, the Apex Court held as under:-

"It is seen that the analysis report which was placed before the Local (Health) Authority and the other pertinent material in connection therewith have been placed before the sanctioning authority. After going through the material, sanction was granted for laying the prosecution. At that stage, it was not for the sanctioning authority to weigh pros and cons and then to find whether the case could end in conviction or acquittal or the adulteration was abnormal or marginal etc. All these are not matters for the sanctioning authority to weigh and to consider the pros and cons of the case before granting sanction to lay prosecution against the respondents."

11. Mr. Anandjiwala's submission is contrary to the views expressed by the Apex Court. It is very clear that in the instant case there is proper sanction. Prosecution for violation of Act or Rules is always in the interest of public and, therefore, the trial Court was not right in law in holding that the sanction was not valid.

12. The questions before this Court now are, which accused are guilty of the offence; and, what punishment should be imposed.

Rule 50 (i) reads as under:-

"No person shall manufacture, sell, stock, distribute or exhibit for sale any article of food, including prepared food or ready to serve food except under a licence."

Thus, for manufacture of any article of food, a

licence is required. Sub rule (2) of Rule 50 authorises the State Government or local authority to appoint licencing authorities. The State has published Rules known as Gujarat Prevention of Food Adulteration Rules 1961 (hereinafter referred to as the Gujarat Rules). Rule 5 of the Gujarat Rules refers to licences. In view of rule 50 of the Rules, and the reason why the Act came to be enacted prescribing minimum sentence is required to be borne in mind. Manufacturing an article of food in contravention of any provision under the Act or Rules is a serious matter. Before granting a licence for manufacture, sell, stock, distribute or exhibition of any article of food in respect of which a licence is required, the licencing authority is required to inspect the premises and to satisfy himself that it is free from sanitary defects and the applicant firm has to make such alterations in the premises as may be required by the licencing authority for the grant of the licence. When a licence is granted, the licensee must observe the conditions for grant of such licence, such as preserving articles of food under hygienic conditions, and keeping them covered in clean containers protecting against dust, disease bearing flies and other noxious elements.

13. It is necessary to consider evidence of Food Inspector Ashwinkumar Shah PW.1, Exh.14. On 27.3.87 at 11.30 am. when the Food Inspector visited the firm he found one Gamanlal Sumanlal Shah looking after the firm's activities. Food Inspector was told that manager Vijaybhai had gone to Rajkot and one Maheshbhai who reside at Rajkot, according to said Gamanlal, was the owner. On further questioning said Gamanlal stated that he was not working with the firm on salary basis but he was providing workers on contract basis in the name of M/s. Harkishandas Narottamdas. On the date when Food Inspector visited, he was asked to look after the firm as the Manager had gone to Rajkot. No reply was given to the Food Inspector to his letter dated 18.5.1987 calling upon the accused No.1 to disclose as to who is the Manager or the owner of the firm. He visited on 25.9.1987 and at that time Work Supervisor Vijaybhai Singhana was present. He stated that he was a Supervisor and not the Manager. He disclosed his inability to convey the name of the owner of the accused No.1. Thus, it is clear that none of the accused was found present on any occasion when Food Inspector visited the accused No.1 but manufacturing was in process. In this background, the Court is required to find out as to who is to be held guilty for an offence.

14. Section 7 of the Act casts a vicarious liability

on a person such as a manufacturer or an owner of article of food on whose behalf the article is sold by another person. For that there must be legal nexus between the two, such as the relationship of principal and agent or of partnership or of master and servant. The relationship must be a more regular or viable other than casual transaction between the two.

15. Mr. Patel, learned APP submitted that the crime of adulterating food is on the increase and if the accused are sent to jail, it will have a deterrent effect. No doubt the offences under the Act, if held proved, call for imposition of punishment as prescribed. The parliament has provided for minimum punishment. However, so far as certain offences are concerned, it is left to the discretion of the Court to punish the offender with less than prescribed punishment for any adequate and special reasons. Section 16 of the Act pertains to penalties, and section 16 (1) (a) with second proviso which is relevant, reads as under:-

16. Penalties.

(1). Subject to the provisions of sub-section

(1-A), if any person -

(a). whether by himself or by any other person

on his behalf, imports into India or manufactures for sale, or stores, sells or distributes any article of food -

(i). which is adulterated within the

meaning of sub-clause (m) of clause (ia) of Section 2 or misbranded within the meaning of clause (ix) of that section or the sale of which is prohibited under any provision of this Act or any rule made thereunder or by an order of the Food (Health) Authority;

(ii). other than an article of food

referred to in sub-clause (i) in contravention of any of the provisions of this Act or of any rule made thereunder; or xxx xxx

Provided that-

(i). if the offence is under

sub-clause (i) of clause (a) and is with respect to an article of

food, being primary food, which is adulterated due to human agency or is with respect to an article of food which is misbranded within the meaning of sub-clause (ix) of Section 2; or,
(ii). if the offence is under sub-clause (ii) of clause (a) but not being an offence with respect to the contravention of any rule made under clause (a) or clause (g) of sub-section (1-A) of Section 23 or under clause (b) of sub-section (2) of Section 24,

the court may for any adequate and special reason to be mentioned in the judgment, impose a sentence of imprisonment for a term which shall not be less than three months but which may extend to two years, and with fine which shall not be less than five hundred rupees;

"Provided further that if the offence is under sub-clause (ii) of clause (a) and is with respect to the contravention of any rule made under clause (a) or clause (g) of sub-section (1-A) of section 23 or under clause (b) of sub-section (2) of Section 24, the Court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees."

16. Mr. Anandjiwala, learned advocate submitted that in this case, proviso (ii) to section 16 (1) will apply, and it is left to the discretion of the Court as to accused should be sentenced to pay a fine only or be sentenced to imprisonment and fine as mentioned in the second proviso.

17. Section 16 (1)(a)(ii) pertains to contravention of any of the provisions of the Act or any rule made thereunder. Rule 50 of the Rules is made under the Act and reading section 16 (1)(a)(ii) of the Act, it becomes clear that if an act is committed in breach of rule 50, then he is required to be dealt with in accordance with the provisions of section 16(1)(a)(ii) of the Act. So far as second proviso to section 16 (1) is concerned, it

cannot be made applicable in the instant case. It is not the prosecution case that there is contravention of any rule made under clause (b) of sub-section 2 of section 24. State Government is conferred with powers to make rules. The relevant part of the section is as under:-

24. (1). The State Government may, after consultation with the Committee and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act in matters not falling within the purview of Section 23.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may

(a). xxx xxx xxx xxx xxx

(b). prescribe the forms of licences for the manufacture, for sale, for the storage, for the sale and for the distribution of articles of food or any specified article of food or class of articles of food, the form of application for such licences, the conditions subject to which such licences may be issued, the authority empowered to issue the same the fees payable therefor, the deposit of any sum as security for the performance of the conditions of the licenses and the circumstances under which such licences or security may be suspended, cancelled, or forfeited;

18. When a licence is issued with certain conditions and if the breach of that condition is committed by a licensee, then it can be said that there is a contravention of rules framed under section 24 (2) (b) of the Act. The form of licences is prescribed under Rule 5 of the Gujarat Rules in Form 'B'. The Licence specify the business of food article. It restricts the quantity of the article of food to be kept in the premises. It mandates to obtain supply of articles from a place which is not objectionable on sanitary grounds. It prohibits the manufacture or store or distribution or sale in contravention of the conditions of the licence. Licence calls upon the licensee to whitewash walls, ceiling etc. atleast twice in a year or as and when required by the authorised personnel. Licensee is required to cause the floor to be paved throughout with suitable impervious material so slopped as to ensure effectual drainage when cleaned or washed and shall connect the same with the public drainage wherever available. Licensee is required to keep the floor and drain of every such room or place

and every counter, shelf or bench on which vessels containing the licenced articles are kept to be washed and thoroughly cleaned daily. The licensee has to cause every vessel used in his place or in distribution of the licenced article to be rinsed with boiling water, thoroughly cleaning them before and after use. The licensee is not permitted to use any water for drinking, washing or cleaning of vessels except water drawn from the municipal main or from a source which is previously approved by the Health officer concerned or the local authority. The licensee is also required to cover all counters or tables used for keeping vessels for the manufacture or sale, storage, distribution with zinc sheets or other suitable impervious material so as to be easily washed and cleansed. Condition No.16 prescribes that the licensee shall not absent himself from the licensed premises for a period of more than 14 consecutive days, unless he has obtained a licence in the name of a responsible person to carry on the business aforesaid in his absence.

Thus, reading the conditions, it becomes clear that the manufacturer distributor, dealer or seller are required to manufacture, distribute, store or sell food articles in absolute hygienic atmosphere and if breach of any of the conditions is committed, the Court may punish the wrong doer in accordance with the law. Second clause of First proviso deals with an offence not being an offence with respect to contravention of any rule made under clause (a) or clause (g) of Sec. 23.(1.A) or under clause (b) of Sec. 24 (2) of the Act, while the second proviso deals with contravention of any rule made under clause (a) or clause (g) of Sec. 23.(1.A) or under clause (b) of Sec. 24 (2) of the Act.

19. As the manufacturing was without a legal and valid licence and in contravention of Rule 50 and not in contravention of rule made under clause (b) of Sec. 24(2) of the Act, offence would be u/s. 16 (1) (a) (ii) of the Act and if there is existence of any adequate and special reasons, it would be covered by first proviso where also minimum is prescribed.

20. Section 17 which refers to offences by Companies is a relevant section in the instant case, which reads as under:

17. Offences by companies.-

(1). Where an offence under this act has been committed by a company -

(a).(i) the person, if any, who has been nominated under sub-section (2) to be in

charge of, and responsible to, the company for the conduct of the business of the company (hereinafter in this section referred to as the person responsible), or

(ii) where no person has been so nominated, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company; and,

(b). the Company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2). xxx xxx xxx xxx xxx

(3). xxx xxx xxx xxx xxx

(4). xxx xxx xxx xxx xxx

Explanation. xxx xxx xxx xxx

21. In the instant case, no person has been nominated under sub-section (2) of section 17 indicating that the person nominated will be in charge of and responsible to the firm for the conduct of the business of the firm. If that be so, every person, who at the time when the offence was committed was in charge of and was responsible to the firm for the conduct of the business of the firm and the firm should be deemed to be guilty of the offence and liable to be proceeded against and punished accordingly. In view of explanation to section 17, the word "Company" includes a partnership firm, and as stated in the explanation, 'director' "in relation to the firm" means "partner" in the firm. In view of the deeming clause, the burden will shift on the accused in case of a partnership firm or a Company or association of individuals to prove that offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of that offence. In the instant case, it is a partnership firm and before commencing the production, the firm was required to obtain a licence for manufacture. Having not obtained such a licence, it

would not be open for accused to say that he is not responsible. The Act requires that before a manufacturer commences the manufacturing activity of an article of food, the manufacturer must have a licence as contemplated under rule 50 of the Rules. Ignorance of law is no excuse. It is incumbent upon accused to obtain a licence as provided in Rule 50. Infact Accused No.5 has come out with a case that the application is made for a licence. Accused, vide Exh.25 executed a deed of partnership on 15th November 1984 after retirement of original accused No.4 as a partner w.e.f. 24.10.84. Accused Nos. 2,3 and 5 were carrying on business of manufacturing of "Tasty Pappad" earlier with accused No.4 in partnership in the name of accused No.1. Manufacturing without a licence is one thing and manufacturing or selling, storing, distributing or exhibiting adulterated food is another thing. In the later case, one may say that if in the absence of an absentee partner, sale is affected by the other partner he may not be held responsible, but where it is obligatory on accused to obtain a licence for manufacturing article of food, presence or absence of the partner at the time of visit of Food Inspector is of no consequence unless a partner is a sleeping partner (i.e. for investment and profit/loss one has chosen to become a partner and has chosen not to participate in the administration of the firm). Once prosecution has led sufficient evidence to show that accused No.1, a manufacturing firm, was manufacturing without a valid licence, then its partners are to be held guilty in view of section 17 (1) of the Act. It is for the accused to prove by leading some evidence to show that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. In the instant case, parthnership deed at Exh.25 clearly reveals that the firm commenced the manufacturing long before and hence all the partners had knowledge that in breach of Rule 50, the firm is manufacturing. Accused was required, in view of section 17 (i) of the Act to rebut the presumption by placing material before the Court that act of manufacturing was without his knowledge or that he exercised due diligence to prevent the commission of offence. Manufacturing without a licence is an offence and there is no material placed by any accused to show that he exercised due diligence to prevent manufacturing activity or the act of manufacturing was without his knowledge.

[22. Mr. Anandjiwaja submitted that so far as accused No. 2 and 3 are concerned, they were sleeping partners and the prosecution has not produced any evidence to show

as to how they are guilty. Accused Nos. 2 and 3 in their statement recorded under section 313 of the Criminal Procedure Code have clearly pointed out that they were sleeping partners. Prosecution has not led any evidence from which an inference can be drawn that they were not sleeping partners. to show that they were not sleeping partners and an offence is committed with their consent or connivance.

23. Section 17 (4) makes the absentee accused vicariously guilty if it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of the other partner eventhough nomination is of other accused. In the instant case, there is no evidence led by the prosecution in proof of this requirement of mens-ria against the sleeping partners, viz, accused No. 2 and 3. From this, the only conclusion that can be drawn is that section 17(4) is inapplicable to create liability against the accused No.2 and 3. If the absentee accused is in charge of or responsible for the conduct of the business of the firm, or by the prosecution it is proved that the offence is committed with the consent or connivance of or is attributable to any neglect of accused who may not be present at the time of commission of an offence despite the nomination being filed under section 17 (2) indicating someone else is in charge and responsible for the conduct of the business, the absence of a partner at the time of the offending act being immaterial, he can be held guilty.

24. Mr. Anandjiwala further submitted that the alleged offence took place in the year 1987 and after a period of ten years, the accused should not be sent to jail. He further submitted that after the alleged incident, the accused have obtained a licence and are manufacturing the food article under a valid licence. Under this circumstance he has submitted that the accused instead of sentencing to imprisonment should be sentenced to pay a fine only. It is under this circumstances, original accused No.1, the manufacturer, and original accused No.5, the partner of accused No.1 are required to be dealt with for an offence punishable under section 16 (i) (a) (ii) of the Act for having contravened the provisions of Sec. 7 of the Act.

25. Mr. Anandjiwala submitted that the alleged offence took place in the year 1987 and after passing more than ten years, the accused should not be sent to jail. He submitted that no doubt at the relevant time there was no licence but the accused are now

manufacturing under a valid licence. It is not the prosecution case that though they were manufacturing without a licence, they were manufacturing in a condition which can be said to be not suitable for manufacturing the food, and, therefore, a lenient view of the matter should be taken. Looking to the fact that there is a delay of more than ten years, this Court feels that the ends of justice would be met with looking to the facts and circumstances of the case, if the accused are ordered to pay fine. In the circumstances, respondent No.1, Patira Packaging, and respondent No.4-Original accused No.5 Atulkumar Jaisukhbhai Patira are held guilty as aforesaid and are sentenced to pay a fine of Rupees Five hundred each within a period of four weeks, in default of payment of fine, accused No.4, Atulkumar Jaisukhbhai Patira is ordered to undergo sentence of simple imprisonment of seven days. Order of acquittal insofar as it relates to accused No.2 and 3 are concerned stands confirmed. Appeal stands partly allowed accordingly.]

csm./ -----